



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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MEMORANDUM FOR DIRECTOR, FIELD OPERATIONS - EAST
DIRECTOR, FIELD OPERATIONS - WEST
DIRECTOR, TECHNICAL SERVICES
DIRECTOR, STRATEGY AND FINANCE

FROM: Susan L. Latham /s/ **Susan Latham**
Director, Tax Policy and Valuation

SUBJECT: Interim Guidance – Expedite Processing of Certain Large
Dollar Cases

This memorandum requires expedite processing of certain Examination-sourced cases with an “agreed and unpaid deficiency” over \$100,000 and/or an overpayment in excess of \$100,000. This guidance does not apply to a deficiency and/or overpayment case that requires Joint Committee review. In regards to an “agreed and unpaid” deficiency, expedite processing is required for the following liability cases:

- Income Tax,
- Estate Tax,
- Gift Tax, and
- Excise Taxes under Chapters 41 - 44.

Please disseminate this information to all Appeals employees involved with these cases. This requirement applies to Appeals Officers, Appeals Team Case Leaders, Appeals Team Managers, Appeals Processing Team Managers, and Appeals Processing Tax Examiners.

The Appeals Officer or Appeals Team Case Leader will “flag” the case file and include remarks on Form 5402, *Appeals Transmittal and Case Memo*, to identify the case for “expedite processing.” The Appeals Team Manager will ensure that the case is properly “flagged” for the Appeals Processing Services (APS) to expedite the case for assessment or refund processing. The APS employees will expedite the case closing, beginning with the assignment of the case on PEAs through the case closing.

See the attachment for instructions.

This interim guidance is effective immediately and will remain in effect for one year from the date of issuance. These procedures will be included in revisions of the following manual sections:

- IRM 8.2.1, *Agreed Pre-90-Day Income Tax Cases*.
- IRM 8.7.4, *Appeals Estate and Gift Tax Cases*
- IRM 8.7.7, *Claim and Overassessment Cases*
- IRM 8.7.10, *Excise Tax Cases and IRA Adjustments*
- IRM 8.20.7, *General Closing Procedures*
- IRM 8.20.10, *Appeals Processing Employee Automated System (PEAs)*

If you have any questions, please contact Sharon D. Evans, Program Analyst, Tax Policy and Procedure.

Attachment

cc: www.irs.gov

Expedite Processing of Certain Large Dollar Cases

Purpose The purpose of this guidance is to accomplish the following in respect to Examination-sourced cases:

- (1) Avoid the unnecessary suspension of deficiency interest under IRC section 6601(c) in respect to certain “large dollar” deficiency cases; and
- (2) Limit the unnecessary accrual of overpayment interest under IRC section 6611 in respect to “large dollar” overpayment cases.

Appeals will make every effort to expedite the closing of certain cases that include an “unpaid and agreed” deficiency and/or “overpayment” period that meets the “large dollar criteria.” Appeals will mirror Exam’s guidelines [contained in [IRM 4.4.18](#), *AIMS Procedures and Processing Instructions, Large Dollar Cases*] for determining the need to expedite such cases and for identifying the “large dollar criteria.”

Exception: This guidance does not apply to a deficiency and/or overpayment case that requires Joint Committee review. See [IRM 8.7.9.2](#).

Audience

- Appeals Officers (AO)
- Appeals Team Case Leaders (ATCL)
- Appeals Team Managers (ATM) for Appeals Officers
- Appeals Processing Team Managers (PTM)
- Appeals Processing Services (APS) Tax Examiners

Interest Imposed on Certain Unpaid Deficiencies

If any amount of tax imposed by Title 26 (Internal Revenue Code) is not paid by the last date prescribed for payment, IRC §6601(a) imposes interest on such tax underpayment. Interest shall be imposed on certain unpaid taxes, penalties, additional amounts, additions to tax, and on unpaid interest.

IRC §6601(c) requires the suspension of underpayment interest in the case of a deficiency defined in IRC §6211 (relating to income, estate, gift and certain excise taxes), if the following apply:

- (1) If a waiver of restrictions under IRC §6213(d) on the assessment of such deficiency has been filed; **and**
- (2) If the Secretary has not made notice and demand for payment within 30 days of the filing of the waiver.

Interest Allowed and Paid on Overpayments

IRC section 6611 provides that interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the overpayment rate established under section 6621. See IRC §6611 for more details about “overpayment interest.”

The general rule is that interest is allowable in respect to overpayments, including the following:

- (1) In the case of an overpayment credit, IRC section 6611 provides for the accrual of interest from the date of the overpayment to the due date of the amount against which the credit is taken; and/or
 - (2) In the case of a refund, the general rule is that interest shall be allowed (under IRC §6611) from the “date of the overpayment” to a date preceding the date of the refund check by not more than 30 days.
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Applicable Deficiency Cases Expedite processing is required for certain cases that contain an “agreed and unpaid” “large dollar” deficiency and/or overpayment. The “large dollar criteria” is contained in this guidance. The applicable deficiency cases include the following, as defined under IRC section 6211.

- (1) Income tax;
- (2) Estate tax;
- (3) Gift Tax, and
- (4) Excise Taxes under the following:
 - Chapter 41 – Public Charities
 - Chapter 42 – Private Foundations
 - Chapter 43 - Qualified Pension, Etc. Plans
 - Chapter 44 – Qualified Investment Entities.

[See [IRM 8.7.10](#), *Excise Tax Cases and IRA Adjustments*.]

Beginning of IRC section 6601(c) Interest Suspension The effective date for a “Form 870 type” agreement differs from the effective date for special agreement forms identified in [IRM 8.6.4.3](#). The “effective agreement date” will begin the 30-day period allowed for assessing the deficiency before *interest is suspended under §6601(c)*.

(1) Waiver Form 870 Type Agreement - Interest is suspended if the deficiency is not assessed within 30 days of IRS’ receipt of Form 870.

(2) Special Agreement Forms Secured in Appeals (including Form 870-AD, etc.) – The agreement becomes effective when the ATCL or ATM executes the special agreement form. Interest is suspended if the deficiency is not assessed within 30 days of the executed special agreement form. See [IRM 8.6.4.3](#), entitled *Agreement Forms Secured in Appeals Cases*.

(3) Closing Agreement – Agreed cases closed with only a Form 906 do not always receive an interest suspension under IRC §6601(c). See [IRM 20.2.5.16](#) for special rules for deficiency cases that do not receive an interest suspension under IRC §6601(c). See also [IRM 8.13.1.2.18](#) and [IRM 8.19.5.18.3](#).

Note: Since the 30-day period (for assessing the deficiency) does not begin until the special waiver form (i.e. Form 870-AD, Form 870-P, etc.) has been signed on the Commissioner’s behalf, the ATM or ATCL should avoid executing this waiver form until the case is ready for closure. The case should be “flagged” for expedite processing.

Applicable Overpayment Cases	This guidance applies to Examination-sourced overpayment cases. Appeals will mirror Exam's policy of expediting a "large dollar" overpayment case. The "large dollar criteria" is contained in this guidance.
Large Dollar Criteria (\$100,000)	<p>Appeals will mirror Exam's "Large Dollar Criteria" of \$100,000 - shown on Form 3198, <i>Special Handling Notice for Examination Case Processing</i>.</p> <p>"\$100,000 dollar criteria" will be determined for each period. If the total amount of an "agreed and unpaid deficiency" (or overpayment) <u>plus penalties</u> exceeds \$100,000, expedite processing is required.</p>
Appeals Officer	<p>The Appeals Officer will do the following:</p> <ol style="list-style-type: none"> (1) Identify the case for expedite processing, and attach an "expedite sticker, note, or tag" that contains a notation similar to the following: "\$100,000 Agreed and Unpaid Deficiency" and/or \$100,000 Overpayment." (2) Include remarks on Form 5402, <i>Appeals Transmittal and Case Memo</i> - requesting "expedite processing" for a "\$100,000 Agreed and Unpaid Deficiency" and/or "overpayment." (3) If a Form 870 type agreement is used, close the case to the Appeals Team Manager (ATM) within five (5) calendar days of Appeals' receipt of Form 870. (4) Include an explanation for the delay (if any) on the case activity record. <p><i>Note: See additional information in this memorandum about "flagging" the case.</i></p>

Appeals
Team Case
Leader

The Appeals Team Case Leader (ATCL) will do the following:

- (1) Identify the case for expedite processing, and attach an “expedite sticker, note, or tag” that contains a notation similar to the following: “\$100,000 *Agreed and Unpaid Deficiency*” and/or “\$100,000 *Overpayment*.”
- (2) Include remarks on Form 5402, *Appeals Transmittal and Case Memo* - requesting “expedite processing” for a “\$100,000 Agreed and Unpaid Deficiency” and/or “overpayment.”
- (3) If a **Form 870 type agreement** is used, close the case to APS **within ten (10) calendar days** of Appeals’ receipt of Form 870.
- (4) Include an explanation for the delay (if any) on the case activity record.

Note: See additional information in this memorandum about “flagging” the case.

Appeals
Team
Manager

The Appeals Team Manager will do the following:

- (1) Ensure that a “large dollar case” is properly flagged for expedite processing. If not, attach an “expedite sticker, note, or tag” that contains a notation similar to the following: “\$100,000 *Agreed and Unpaid Deficiency*” and/or “\$100,000 *Overassessment*.”
- (2) Ensure that the Form 5402, *Appeals Transmittal and Case Memo* contains the remarks (if applicable) to request “expedite processing” for a “\$100,000 Agreed and Unpaid Deficiency” and/or “\$100,000 Overpayment.”
- (3) If a **Form 870 type agreement** is used, close the case to APS **within ten (10) calendar days** of Appeals’ receipt of Form 870.
- (4) Include an explanation for the delay (if any) on the case activity record.

Note: See additional information in this memorandum about the “flagging” the case.

Appeals
Processing
Services
(APS)

The Appeals Processing Section (APS) employee will do the following:

- (1) Identify the case as “high priority” when the case is assigned on Appeals’ *Processing Employee Automated System* (PEAs), and identify the number of days remaining (if any) to avoid interest suspension. See [IRM 8.20.10](#).
 - (2) Mirror Exam’s procedures for determining the “large dollar criteria,” as shown on Form 3198 (and contained in this guidance).
 - (3) For a deficiency case, a “quick assessment” is required for an “agreed” deficiency in excess of \$100,000.
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“Flagging” the
Case

This interim guidance requires that the appropriate Appeals employee (identified in this memo) “flag” the case to alert Appeals employees - as the case moves through the process - to expedite the case closing for certain large dollar cases. The Appeals employee will attach an “expedite sticker, note, or tag” when a case falls under the criteria identified in this memorandum.

There is no requirement for the use of a specific “expedite sticker,” “expedite tag,” or “expedite note.” The employee should use a method that would promptly alert the employee of the need to “expedite the case for closing.” Appeals employees could use either of the following methods to “flag” the case:

- (1) Attach [Document 5089](#), *Expedite Tag* (if available). This document is obsolete, but these “pink expedite tags” are still available in many Appeals offices. The employee should include a notation similar to the following: “\$100,000 Agreed and Unpaid deficiency” and/or “\$100,000 Overpayment.”
- (2) Attach [Form 13820](#), *Expedite Paper Tag* (if available). Document 5089 is obsolete, but this document could be replaced with Form 13820 (catalog number 48863D) or a Rush! red flag tag, which can be ordered from Office Depot, Office Supply Catalog. IRS employees can use Form 13820, but this form must be ordered and funded by the requesting office on a [Form 1767](#). The employee should include a notation similar to the following: “\$100,000 Agreed and Unpaid deficiency” and/or “\$100,000 Overpayment.”
- (3) The Appeals employee could attach any note that would “stand out” to alert other employees (especially APS) of the need to expedite the case closing. The employee should include a notation similar to the following: “\$100,000 Agreed and Unpaid deficiency” and/or “\$100,000 Overpayment.”